

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference M. LE . 0666 . WO	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/002866	International filing date (day/month/year) 19.03.2004	Priority date (day/month/year) 12.04.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant LEMO MASCHINENBAU GMBH		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-5 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-12 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/1 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-12	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-12	NO
Industrial applicability (IA)	Claims	1-12	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
1 This report makes reference to the following documents:			
D1: US-A-6533711			
D2: JP-A-2001171695			
D3: DE-A-3144702			
D4: FR-A-834710			
D5: DE-A-1917496			
D6: JP-A-11171202			
2 The present application does not meet the requirements of PCT Article 33(1) because the subject matter of independent claims 1 and 6 does not involve an inventive step (PCT Article 33(3)).			
2.1 Document D1 discloses (see column 1, line 60 - column 2, line 13; column 3, lines 43-47; fig. 1) a carrier bag which is made from a thermoplastic synthetic material film and comprises two opposite side walls (12) which are bonded together at the side edges and bases thereof, a closing device (34) provided with profiled strips being bonded to the inner sides of the side walls, it being			

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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possible to use the closing device to close the opening via which the bag is filled, each side wall being provided with a gripping hole (26) underneath the closing device.

The subject matter of claim 1 thus differs from the known carrier bag only in that the closing device can be actuated by a sliding element. However, this feature is regarded simply as a common structural measure for solving the problem of interest. This feature therefore does not involve an inventive step.

For the sake of completeness the applicant should note that the subject matter of claim 1 also does not involve an inventive step with respect to the disclosure of D2 (see page 2, paragraph 12; page 3, paragraph 16; figs. 1-3).

- 2.2 Document D3 discloses (see page 7, line 25 - page 8, line 5; page 12, lines 1-13; fig. 4) a carrier bag which is made from a thermoplastic synthetic material film and comprises two opposite side walls, on the inside of which is bonded a closing device (3) which is provided with profiled strips and can be actuated by a sliding element (22) and with which the opening via which the bag is filled can be closed, a carry handle (2) which is provided with a gripping hole and is made of a thermoplastic synthetic material film being arranged on the outer side of each side wall.

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The subject matter of claim 6 thus differs from the known carrier bag only in that the two side walls of the carrier bag are bonded together at the side edges and bases thereof (feature A) and in that the carry handle, when attached, points towards the base of the carrier bag and lies flat against the side wall (feature B).

Feature A is only one of several obvious possibilities from which a person skilled in the art would choose according to the circumstances in order to solve the problem of interest, without thereby being inventive.

Document D4 (see page 2, lines 12-28; figs. 1-4) describes the same advantages as the present application in relation to feature B. A person skilled in the art would therefore regard the inclusion of this feature in the carrier bag described in D3 as a common structural measure for solving the problem of interest.

A person skilled in the art would therefore consider it common procedure to combine all the features indicated in claim 6.

In addition, claim 6 should be clarified (PCT Article 6) in that it should define how the carry handles should be used; see, for example, page 5, lines 14-17 of the description.

3 Dependent claims 2-5 and 7-12 do not contain any

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	<p>features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step; see the relevant passages of documents D2, D3, D4, D5 and D6 that are listed in the search report.</p> <p>4 Contrary to PCT Rule 5.1(a)(ii), the description does not cite documents D1 to D4 or indicate the relevant prior art disclosed therein.</p>